

**ENTERED**

July 03, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

CYNTHIA BANDA,

Plaintiff,

VS.

CITY OF MCALLEN, TEXAS,

Defendant.

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Civil Case No. 7:23-CV-00341

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the May 24, 2024 Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Peter Bray. (Dkt. No. 31). Judge Bray made findings and conclusions and recommended that Defendant’s First Motion to Dismiss Plaintiff’s Fifth Amended Complaint, (Dkt. No. 25), be granted. (Dkt. No. 31).

The Parties were provided proper notice and the opportunity to object to the M&R. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On June 7, 2024, Plaintiff filed seven broad objections. (Dkt. No. 32 at 2). Plaintiff objected to Judge Bray’s: (1) factual and legal findings; (2) recommendation that Plaintiff’s claims be dismissed with prejudice; (3) finding that Plaintiff alleged insufficient facts regarding the first two elements set forth in *Ship v. McMahon*, 234 F.3d 907, 913–14 (5th Cir. 2000); (4) finding that Plaintiff alleged insufficient facts regarding Defendant’s practice of treating domestic assault victims less favorably than victims of other assaults; (5) finding that Banda alleged insufficient facts regarding discrimination against women as a motivating factor for Defendant’s policy; (6) finding that Plaintiff alleged insufficient facts regarding Defendant’s intent to

discriminate against women; and (7) finding that further amendment of Plaintiff's pleadings would be futile. (Dkt. No. 32 at 2-3).

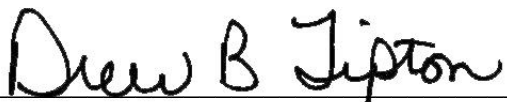
In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; see also Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Judge Bray's M&R (Dkt. No. 31) is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court;
- (2) Defendant's First Motion to Dismiss Plaintiff's Fifth Amended Complaint, (Dkt. No. 25), is **GRANTED**; and
- (3) This action is **DISMISSED WITH PREJUDICE**.

It is SO ORDERED.

Signed on July 2, 2024.

  
DREW B. TIPTON  
UNITED STATES DISTRICT JUDGE